

May 14, 2001

Magalie Roman Salas, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-B204
Washington, D.C. 20554

Re: Written Comments of the Connecticut Department of Public Utility Control on the Application by Verizon New York Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. (collectively, Verizon) for Authorization to Provide In-Region, InterLATA Services in Connecticut Pursuant to Section 271 of the Telecommunications Act of 1996

Dear Ms. Salas:

Enclosed please find one original and four copies of the Written Comments of the Connecticut Department of Public Utility Control on the Application of Verizon to Provide In-Region, InterLATA Services in Connecticut.

Sincerely,

DEPARTMENT OF PUBLIC UTILITY CONTROL

Louise Rickard
Acting Executive Secretary

Enclosures

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Application by Verizon New York Inc., Verizon Long)
Distance, Verizon Enterprise Solutions, Verizon Global)
Networks Inc., and VerizonSelect Services Inc. (collectively,)
Verizon) for Authorization to Provide In-Region, InterLATA)
Services in Connecticut Pursuant to Section 271 of the)
Telecommunications Act of 1996)

WRITTEN COMMENTS OF THE CONNECTICUT DEPARTMENT
OF PUBLIC UTILITY CONTROL ON THE APPLICATION BY
VERIZON FOR AUTHORIZATION TO PROVIDE
IN-REGION, INTERLATA SERVICES IN CONNECTICUT
PURSUANT TO SECTION 271 OF THE
TELECOMMUNICATIONS ACT OF 1996

Donald W. Downes
Chairman

Glenn Arthur
Vice-Chairman

Jack R. Goldberg
Commissioner

John W. Betkoski, III
Commissioner

Linda Kelly Arnold
Commissioner

May 14, 2001

Connecticut Department of
Public Utility Control

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Application by Verizon New York Inc., Verizon Long)
Distance, Verizon Enterprise Solutions, Verizon Global)
Networks Inc., and VerizonSelect Services Inc. (collectively,)
Verizon) for Authorization to Provide In-Region, InterLATA)
Services in Connecticut Pursuant to Section 271 of the)
Telecommunications Act of 1996)

WRITTEN COMMENTS OF THE CONNECTICUT DEPARTMENT
OF PUBLIC UTILITY CONTROL ON THE APPLICATION BY
VERIZON FOR AUTHORIZATION TO PROVIDE
IN-REGION, INTERLATA SERVICES IN CONNECTICUT
PURSUANT TO SECTION 271 OF THE
TELECOMMUNICATIONS ACT OF 1996

I. Introduction and Summary

On April 23, 2001, Verizon New York, Inc. (Verizon or Company) filed its application (Application) with the Federal Communications Commission (FCC or Commission) requesting authorization to provide in-region, interLATA services in Connecticut, pursuant to Section 271 of the Telecommunications Act of 1996 (Act). Concurrently, the FCC issued its Request for Comments on the Application by Verizon New York, Inc. for Authorization Under Section 271 of the Communications Act to Provide In-Region, InterLATA Service in the State of Connecticut, (CC Docket No. 01-100), seeking comments by interested parties in support of or in opposition to Verizon's application. The Connecticut Department of Public Utility Control (CTDPUC) fully supports Verizon's application to provide in-region, interLATA services in Connecticut.

II. Background Information

On July 31, 2000, the CTDPUc received a request from Verizon that the CTDPUc approve its proposed Statement of Generally Available Terms and Conditions (SGAT) and certify that the Company meets the requisite requirements to proceed under the Track B alternative of Section 271 of the Act. In the Decision dated September 6, 2000 in Docket No. 97-01-23, Application of New York Telephone Company Pursuant to Section 271 of the Telecommunications Reform Act of 1996, the CTDPUc approved the Company's SGAT subject to its further investigation permitted pursuant to § 252(f)(4) of the Act. A copy of that Decision is appended hereto as Attachment A. In the Interim Decision dated October 25, 2000 in Docket No. 97-01-23, the CTDPUc concluded that it lacked the authority to provide the certification requested by Verizon. A copy of that Decision is appended hereto as Attachment B. However, on March 21, 2001, the CTDPUc approved an interconnection agreement between Verizon and Network Plus, Inc. (Network Plus),¹ which required that the CTDPUc certify that the Company met the requirements under Track A of Section 271 of the Act. Therefore, the CTDPUc concluded that Track B was foreclosed to Verizon, and it proceeded under Track A to gain approval to provide in-region interLATA services in Connecticut. Finally, in the Decision dated April 11, 2001 in Docket No. 97-01-23, the CTDPUc concluded that Verizon had complied with the 14-point competitive checklist. A copy of that Decision is appended hereto as Attachment C.

III. The 14-Point Checklist and Verizon's SGAT

Due to the fact that Verizon has a relatively small Connecticut operation, which it conducts out of New York using the same systems and processes and providing wholesale products and services at New York rates, the CTDPUc relied primarily on the comprehensive investigation and expertise of the NYPSC for its determination that Verizon was in compliance with Section 271 of the Act. While acknowledging Verizon's Interconnection Agreement with Network Plus, the CTDPUc did not consider one Interconnection Agreement by itself to be sufficient justification to support Verizon's claim that it met the requirements of the 14-point competitive checklist. Rather, the CTDPUc proceeded with a review of Verizon's compliance with the Act's 14-point competitive checklist in order to determine whether Verizon had sufficiently opened its market to competition in Connecticut and whether it has committed to measures that will ensure its market remains open to competition if it is granted the authority to enter the long distance market.

The NYPSC's comprehensive investigation was conducted in a manner that is consistent with the CTDPUc and FCC standards. For those checklist items which remained constant since the FCC's approval of Verizon's New York application, the CTDPUc relied on the record of the NYPSC for its findings of compliance for those specific checklist items in Connecticut.

The CTDPUc believes that it is reasonable for Verizon to have consistency between its Connecticut and New York operations and has approved the

¹ Decision dated March 21, 2001 in Docket No. 01-02-04, Application of Verizon New York, Inc.

Company's request to offer various services in its Connecticut service territory that mirrored those that were approved by the NYPSC and offered in New York.² Specifically, the CTDPUc relied on its Decisions,³ the NYPSC decision approving the Company's petition for interLATA entry into the long distance market⁴ and the FCC's orders to be sufficient evidence that Verizon complied with all checklist items in Connecticut.

Checklist Item No. 1 – Interconnection;

Verizon provides competing carriers in Connecticut with the same forms of interconnection and collocation that it does in New York. Verizon added one new collocation offering since the FCC approved its New York Section 271, providing collocation at remote terminal equipment enclosures (CRTEE) so as to facilitate the CLECs' ability to access the Company's unbundled subloop offerings. The CRTEE offering in the Connecticut SGAT is identical to that provided in New York.

However, in the April 11, 2001 Decision in Docket No. 97-01-23, the CTDPUc determined that the Geographically Relevant Points of Interconnection Proposal

for Approval of an Interconnection Agreement with Network Plus, Inc.

² See the Decision dated May 17, 2000 in Docket No. 99-03-21, Application of Bell Atlantic for a Proposed Tariff for Unbundled Network Elements – Rebundled Service; Decision dated June 9, 1999 in Docket No. 99-03-32, Application of New York Telephone to Introduce Call Manager Package; Decision dated August 4, 1999 in Docket No. 99-05-28, Application of New York Telephone to Amend ISDN Basic Service and the Decision dated December 29, 1999 in Docket No. 99-11-06, Application of New York Telephone to Introduce Centrex Caller ID with Name.

³ See for example, the May 17, 2000 Decision in Docket No. 94-11-03, DPUC Investigation Into the Unbundling of the New York Telephone Company's Local Telecommunications Network; and the February 23, 2000 Decision in Docket No. 99-05-30, Application of New York Telephone to Introduce Rates and Charges for Collocation for Certified Local Exchange Carriers.

(GRIPS) proposal was not approved by the New York Public Service Commission (NYPSC); and therefore, required that the GRIPS proposal be deleted until such time as it is approved by the NYPSC.

Checklist Item No. 2 – Nondiscriminatory access to network elements;

Verizon provides CLECs access to unbundled network elements in Connecticut using the New York processes and procedures. Verizon is in full compliance with the FCC's Line Sharing Order,⁵ as it offers requesting carriers unbundled access to the high frequency portion of those loops on which Verizon provides voice service to end users. CLECs have the ability to purchase line sharing in Connecticut through interconnection agreements, tariffs or the SGAT. Furthermore, Verizon has agreed that decisions made in the New York line sharing collaborative will apply in Connecticut unless the CTDPU establishes alternative requirements. Verizon is capable of meeting CLEC demands for line sharing in commercial volumes as it is monitoring line sharing order volumes and is poised to add additional personnel as necessary.

The OSS for Connecticut is identical to Verizon's New York OSS and any modifications in the New York Performance Assurance Plan (PAP) will be automatically incorporated into the Verizon's Connecticut PAP.

⁴ NYPSC Case 97-C-0271, For Approval of Its Statement of Generally Available Terms and Conditions Pursuant to Section 252 of the Telecommunications Act of 1996 and Draft Filing of Petition for InterLATA Entry Pursuant to Section 271 of the Telecommunications Act of 1996.

⁵ In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, In the Matter of Implementation of the Local Competition Provision of the Telecommunications Act of 1996, CC Docket No. 96-98, (Line Sharing and UNE Remand Orders), (December 9, 1999).

Checklist Item No. 3 - Nondiscriminatory access to the poles, ducts, conduits and rights-of-way owned or controlled by Verizon;

Verizon provides nondiscriminatory access to poles, ducts, conduits and rights-of-way that it owns or controls in Greenwich and Byram. Access is provided in Connecticut on the same terms and conditions that it provides these items in New York except for one immaterial difference. That is, access to main ducts and conduit is provided through Empire City Subway in New York, a separate subsidiary, an insignificant difference, as it provides these items through identical licensing agreements in New York and Connecticut.

Checklist Item No. 4 – Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services;

Pursuant to the FCC's Unbundled Network Element (UNE) Remand Order,⁶ Verizon provides access to unbundled subloops in Connecticut through interconnection agreements, tariffs and the SGAT. Verizon tracks its unbundled loop performance in Connecticut using the same measurements as in New York.

Checklist Item No. 5 – Local transport from the trunk side of a wireline local exchange carrier switch, unbundled from switching or other services;

Pursuant to the UNE Remand Order, Verizon offers dark fiber interoffice facilities and dark fiber loops, where spare facilities are available in Connecticut. Verizon has extensive experience in provisioning dark fiber to CLECs in several other New England states.

⁶ Id.

Checklist Item No. 6 - Nondiscriminatory unbundled local switching;

Verizon provides nondiscriminatory unbundled local switching in Greenwich and Byram using the same processes and procedures as in New York.

Checklist Item No. 7 - Nondiscriminatory access to 911 and E911, directory assistance and operator services;

Verizon provides nondiscriminatory access to 911 and E911 services in an identical process to that used by CLECs that resell retail dial tone service or use unbundled local switching service in New York. In the case of 911 and E911 services for Verizon's customers in Connecticut, nondiscriminatory access is simplified by the fact that the Southern New England Telephone Company (SNET) is the E911 provider for Connecticut. Therefore, for its Connecticut customers, Verizon accesses SNET's 911 and E911 services through trunking arrangements. Furthermore, Verizon has in place a nondiscriminatory process to ensure that CLECs' E911 database entries are maintained with the same accuracy and reliability that it maintains for its own retail customers.

All calls from customers of resellers and facilities-based carriers are handled in the same Operator Call Completion Centers that handle its own retail customers' requests for DA and other operator services. Calls from CLEC customers are commingled with calls from Verizon's retail customers and handled in a nondiscriminatory manner.

Checklist Item No. 8 - access to white pages and directory listings;

Verizon provides nondiscriminatory access to its white pages directory listings for customers of other carrier's telephone exchange service using the New York processes and procedures. Verizon ensures that listings are not inadvertently dropped when a customer switches from Verizon to a competing carrier.

Checklist Item No. 9 - Nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers;

Verizon is not responsible for assigning telephone numbers either to itself or to competing carriers: NeuStar has assumed responsibility as the North American Numbering Plan Administrator.⁷ Through February 2001, 15 NXX codes were assigned to CLECs in Greenwich and Byram. Verizon ensures accurate and complete programming of NXX codes in Connecticut switches using the same implementation and testing procedures it uses in New York.

Checklist Item No. 10 – Nondiscriminatory access to databases and associated signaling necessary for call routing and completion;

Verizon uses the New York processes and procedures to allow CLECs in Connecticut to access the same databases and signaling network that Verizon provides in New York. Verizon provides competing carriers with access to its Service Management Database, enabling competitors to enter, modify or delete entries for their customers in Verizon's databases. CLECs also have the ability to access Verizon's Service Creation Environment, enabling competitors to design, create and test their own Advanced Intelligent Network (AIN)-based telecommunications services.

⁷ See Lacouture/Ruesterholz Decl. ¶ 349.

Checklist Item No. 11 - interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible;

Verizon provides interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. Verizon has provided number portability to CLECs in Connecticut since December 31, 1997, using the New York procedures and processes.

Checklist Item No. 12 - Nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity;

Verizon provides nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity. In addition, while intraLATA toll dialing parity is not a checklist requirement, Verizon has implemented intraLATA toll dialing parity in Connecticut.

Checklist Item No. 13 – Reciprocal compensation;

Each carrier is able to recover the costs it incurs for the transport and termination of local traffic originating on the other carrier's network. The rates, terms and conditions associated with reciprocal compensation arrangements are closely based on comparable terms and conditions in New York. Rate levels and structures for reciprocal compensation in the Connecticut SGAT are the same as those that were litigated by the NYPSC and are based on the Total Element Long Run Incremental Cost (TELRIC) principles defined by the FCC. Verizon has also

amended language in the SGAT to include Internet traffic in its reciprocal compensation payments.

Checklist Item No. 14 - Telecommunications services are available for resale.

Verizon makes available for resale, at wholesale rates, all of the telecommunications services it offers at retail to subscribers that are not telecommunications carriers. These resale services are available in Connecticut using the New York procedures and processes. Moreover, Verizon's Connecticut tariff provisions governing resale are identical to Verizon's New York tariff provisions, and offer the exact same wholesale discounts.

The CTDPUc completed its examination of Verizon's compliance with the requirements of Section 271 of the Act, with respect to the NYPSC record and the Company's SGAT relative to the 14-point competitive checklist. In the Decision dated April 11, 2001, in Docket No. 97-01-23, the CTDPUc determined that Verizon had demonstrated full compliance with the competitive checklist. In its review of the SGAT, the CTDPUc found that the Geographically Relevant Points of Interconnection Proposal (GRIPS) proposal was not approved by the New York Public Service Commission (NYPSC); and therefore required that the GRIPS proposal be deleted.

In that Decision, the CTDPUc also ordered Verizon to amend its Connecticut PAP based upon the New York plan; with the amount of monetary penalties for unsatisfactory performance being the only exception. Finally, Verizon was

ordered to submit relevant comparative performance data to the CTDPUc in the same format as ordered by the FCC and the NYPSC.

IV. Future Commitments

Verizon conducts its Connecticut operations out of New York using the same systems and processes and providing wholesale products and services at New York rates. Therefore, the CTDPUc has relied mainly on the comprehensive investigation and expertise of the NYPSC for its determination that Verizon was in compliance with Section 271 of the Act. Furthermore, the CTDPUc has approved approximately 22 interconnection agreements between Verizon and CLECs, as well as the SGAT, demonstrating that carriers can enter the local market if they so chose.

The CTDPUc has approved UNE and collocation tariffs that contain rates, terms and conditions contained in Verizon's New York tariffs. The CTDPUc fully expects these tariffs will continue to mirror Verizon's New York tariffs. The CTDPUc also ordered Verizon to implement in Connecticut any UNE rate changes that the Company makes in New York,⁸ concluding that it could rely on the NYPSC's review of the Company's wholesale rates and tariffs and did not need to conduct its own comprehensive investigations. Accordingly, the CTDPUc adopted New York's UNE rates, including any rate changes that will come out of the ongoing UNE rate proceeding in New York.

Similarly, the CTDPUc ordered Verizon to file proposed amendments to its Connecticut collocation tariff with the CTDPUc no later than ten business days

following the NYPSC's approval.⁹ These changes become effective automatically on 21 days notice. In addition, Verizon is required to provide all UNE combinations that it currently offers in New York, and the CTDPU approved Verizon's resale tariff, which mirrors that of New York.¹⁰

The CTDPU fully expects Verizon to uphold its commitment in Connecticut, adopting any changes made in its New York operations to be directly reflected in its Connecticut operations.

V. Conclusion

In the April 11, 2001 Decision in Docket No. 97-01-23, the CTDPU directed Verizon to modify two provisions of the SGAT, which Verizon has done. With these changes, the CTDPU concludes that Verizon has demonstrated full compliance with the Act's 14-point competitive checklist. The CTDPU believes

⁸ Decision dated May 17, 2000 in Docket No. 94-11-03, DPUC Investigation Into the Unbundling of the New York Telephone Company's Local Telecommunications Network.

⁹ Decision dated February 23, 2000 in Docket No. 99-05-30, Application of New York Telephone to Introduce Rates and Charges for Collocation for Certified Local Exchange Carriers.

¹⁰ Decision dated November 5, 1997 in Docket No. 97-08-14, Application of New York Telephone Company to Introduce Resale Services.

that approval of Verizon's application to provide in-region, interLATA services in Connecticut would enhance competition and be in the public interest, and recommends that the FCC grant Verizon's request.

Respectfully submitted,

CONNECTICUT DEPARTMENT OF
PUBLIC UTILITY CONTROL

Donald W. Downes
Chairman

Glenn Arthur
Vice-Chairman

Jack R. Goldberg
Commissioner

John W. Betkoski, III
Commissioner

Linda Kelly Arnold
Commissioner

May 14, 2001

Connecticut CTDPU of
Public Utility Control
Ten Franklin Square
New Britain, CT 06051

CERTIFICATION

Miriam L. Theroux

Commissioner of the Superior Court |



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL
TEN FRANKLIN SQUARE
NEW BRITAIN, CT 06051

**DOCKET NO. 97-01-23 APPLICATION OF NEW YORK TELEPHONE COMPANY
PURSUANT TO SECTION 271 OF THE
TELECOMMUNICATIONS REFORM ACT OF 1996**

September 6, 2000
By the following Commissioners:

Jack R. Goldberg
John W. Betkoski, III
Linda Kelly Arnold

DECISION

The Department of Public Utility Control (Department) acknowledges receipt on June 26, 2000, of the New York Telephone Company d/b/a Bell Atlantic's (BA-NY or Company) Statement of Generally Available Terms & Conditions (SGAT), that has been submitted for approval by the Department. The SGAT, filed pursuant to Section 252(f) of the Telecommunications Act of 1996 (Telcom Act), sets forth the terms, conditions and pricing under which BA-NY offers to provide to any requesting Certified Local Exchange Carrier interconnection services, access to unbundled network elements and resale telecommunications services available in the BA-NY operating territory within Connecticut. SGAT Filing, 6/23/00, p. 1.

Rates and charges in the SGAT were derived consistent with Department Orders in Docket No. 94-11-03, DPUC Investigation Into the Unbundling of the New York Telephone Company's Local Telecommunications Network, Docket No. 99-03-21, Application of Bell Atlantic for a Proposed Tariff for Unbundled Network Elements – Rebundled Service and Docket No. 99-05-30, Application of New York Telephone to Introduce Rates and Charges for Collocation for Certified Local Exchange Carriers. For SGAT items with a corresponding offering under the Company's Connecticut Tariffs

Nos. 9 through 12, rates and charges were taken from those tariffs. For the remaining items, rate levels were established consistent with the Company's corresponding approved tariffs for New York. SGAT Filing, 6/23/00, p. 2.

By letter dated August 2, 2000, the Department issued notice to persons on its mailing list believed to have an interest in this matter. The notice stated that the SGAT was filed and available for examination at the offices of the Department. By motion dated August 19, 2000 (Motion), WorldCom, Inc. (WCI) requested that the Department commence and continue its review of the SGAT filing. Specifically, WCI requested the Department to either (1) obtain an extension from BA-NY in order to conduct and complete its review of the Company's SGAT filing, in accordance with §252(f)(3)(A) of the Telcom Act, or, if the Company does not provide its consent to an extension of the 60 day review period prior to the end of the 60 day review period under Section 252(f)(3) of the Telcom Act, (2) permit the SGAT to take effect subject to continuing review by the Department, in accordance with Section 252(f)(4) of the Telcom Act. According to WCI, as a result of its preliminary review of the SGAT, it has identified a number of issues that warrant the Department's review and attention. These issues include but are not limited to reciprocal compensation, the availability of the Company's unbundled network element platform, the Company's Geographically Relevant Points of Interconnection proposal, pricing and digital subscriber line services. WCI also argues that the Department cannot assume that the Company's New York 271 approval constitutes a basis for allowing the SGAT to take effect without any review. Lastly, WCI recommends that the Department investigate whether the SGAT is in compliance with the Department's telecommunications service quality standards or requirements. Motion, pp. 2-7.

The Department has reviewed the Motion and notes that WCI has raised several issues that warrant further investigation. Section 252(f)(3) of the Telcom Act requires the Department, to a) complete its review unless the Company agrees to an extension of the review period; or b) permit the SGAT to take effect.¹¹ not later than 60 days after submission of the SGAT. Moreover, §252(f)(4) of the Telcom Act provides the Department with the ability to continue its review of the SGAT following that approval. Although WCI has raised a number of issues involving the SGAT, the Department does not believe that they require that the SGAT not be approved. Therefore, the Department will approve the Company's SGAT subject to its further investigation permitted pursuant to §252(f)(4) of the Telcom Act. A schedule of the Department's investigation of the SGAT will be issued in the near future.

¹¹ By letter dated August 22, 2000, the Company agreed to extend the 60-day review period to September 6, 2000. BA-NY August 22, 2000 Letter, p. 1.

**DOCKET NO. 97-01-23 APPLICATION OF NEW YORK TELEPHONE COMPANY
PURSUANT TO SECTION 271 OF THE
TELECOMMUNICATIONS REFORM ACT OF 1996**

This Decision is adopted by the following Commissioners:

Jack R. Goldberg

John W. Betkoski, III

Linda Kelly Arnold

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Department of Public Utility Control, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.

Louise E. Rickard
Acting Executive Secretary
Department of Public Utility Control

9/12/00

Date



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL
TEN FRANKLIN SQUARE
NEW BRITAIN, CT 06051

**DOCKET NO. 97-01-23 APPLICATION OF NEW YORK TELEPHONE COMPANY
PURSUANT TO SECTION 271 OF THE
TELECOMMUNICATIONS REFORM ACT OF 1996**

October 25, 2000

By the following Commissioners:

Jack R. Goldberg
John W. Betkoski, III
Linda Kelly Arnold

INTERIM DECISION

I. INTRODUCTION

A. SUMMARY

This docket addresses Verizon New York Inc.'s request that the Department of Public Utility Control certify that Verizon New York meets the requirements to proceed under the Track B alternative of Section 271 of the Telecommunications Act of 1996. In this Interim Decision, the Department concludes that it lacks the authority to provide the certification requested by Verizon.

B. BACKGROUND OF THE PROCEEDING

On July 31, 2000, the Department of Public Utility Control (Department) received a request from Verizon New York, Inc. (Verizon or Company) that the Department certify that Verizon meets the requisite requirements to proceed under the Track B alternative of Section 271 of the Telecommunications Act of 1996 (Act). According to

Verizon, as a prerequisite to the Company's application for long distance authorization at the Federal Communications Commission (FCC) under Section 271, the Department must certify that Verizon may proceed under Track B.

C. CONDUCT OF THE PROCEEDING

By Notice of Request for Written Comments dated August 8, 2000, the Department solicited written comment from Competitive Local Exchange Carriers (CLEC) regarding the applicability of the exceptions contained in 47 U.S.C. 271(c)(1)(B). By Notice of Hearing dated August 16, 2000, a public hearing on this matter was held on August 28, 2000, at the Department's offices, Ten Franklin Square, New Britain, Connecticut 06051.

D. PARTIES AND INTERVENORS

The Department recognized as Parties to this proceeding Verizon New York, Inc., 1095 Avenue of the Americas, New York, NY 10036; the Office of Consumer Counsel, Ten Franklin Square, New Britain, Connecticut 06051; Cablevision Lightpath, Inc., 1111 Stewart Avenue, Bethpage, NY 11714; AT&T Communications of New England, 32 Avenue of the Americas, New York, NY 10013; Worldcom, Inc., 200 Park Avenue, New York, NY 10166. The Department recognized Sprint Communications Company L.P., 401 9th Street NW Suite 400, Washington, DC 20004 as an intervenor to this proceeding.

II. DEPARTMENT ANALYSIS

According to Verizon, as it is a Regional Bell Operating Company (RBOC) which provides local exchange service to the communities of Greenwich and Byram, the Department must certify that the Company may proceed under Track B as a prerequisite to its application for long distance authorization under Section 271 of the Act. Because no CLEC is providing residential service more than four years after the passage of the Act, Verizon argues that the requirements for Track B are satisfied, and that the Department should therefore provide the requisite certification.¹²

Verizon states that competitors have not implemented their agreements in a way that satisfies Track A, as no providers are providing facilities-based local service to residential subscribers in Greenwich and Byram,¹³ and no evidence exists

¹² 47 U.S.C. 271(c)(1)(B) - FAILURE TO REQUEST ACCESS- A Bell operating company meets the requirements of this subparagraph if, after 10 months after the date of enactment of the Telecommunications Act of 1996, no such provider has requested the access and interconnection described in subparagraph (A) before the date which is 3 months before the date the company makes its application under subsection (d)(1), and a statement of the terms and conditions that the company generally offers to provide such access and interconnection has been approved or permitted to take effect by the State commission under section 252(f). For purposes of this subparagraph, a Bell operating company shall be considered not to have received any request for access and interconnection if the State commission of such State certifies that the only provider or providers making such a request have (i) failed to negotiate in good faith as required by section 252, or (ii) violated the terms of an agreement approved under section 252 by the provider's failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement.

¹³ No carrier has challenged this statement,

demonstrating that these providers intend to do so. Application, pp. 6-8. Verizon also argues that all of the carriers with approved interconnection agreements with the Company are business- or DLS-only service providers. Application, Appendix B, pp. 1-7. Consequently, no existing interconnection requests are qualifying requests under Track A. Verizon further states that even if qualifying requests have been made, the underlying interconnection agreements have not been implemented within a reasonable period of time as required by the implicit terms of their agreements. Verizon states that while its interconnection agreements do not contain explicit implementation schedules specifying a time frame for competitors to serve residential customers, the agreements should be read to contain an implicit reasonableness requirement. Application, p. 10.

AT&T Communications of New England, Worldcom, Inc. and Cablevision Lightpath, Inc. (collectively, the CLECs) argue that Verizon has requested a certification that the Department is not authorized to provide under the Act. According to the CLECs, the Department is authorized to certify that an otherwise qualified request under Track A should be disqualified because the requesting carrier either failed to negotiate in good faith or violated the terms of an interconnection agreement by its failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement. The CLECs argue that neither exception is available. Consequently, according to the CLECs, there is nothing to certify.

The Department agrees with the statutory interpretation proffered by the CLECs. Specifically, the Department sees no authority for the Department to certify that Track B is available to Verizon. Instead, the Department views its responsibility in this regard as certifying that an otherwise qualified request should be disqualified for the reasons set forth in 47 U.S.C. 271(c)(1)(B). The Department does not find grounds to provide such certification.

Verizon has not alleged that any provider has failed to negotiate in good faith. Verizon does argue that providers have violated their interconnection agreements by not complying with implicit implementation schedules contained in their agreements. However, finding implicit implementation schedules in interconnection agreements would directly contradict FCC pronouncements on this issue. The FCC has held that RBOCs and state commissions are in no position to assert failure to act on the part of competitors when an implementation schedule was not obtained or required in the interconnection agreement. Application of BellSouth Corporation Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in South Carolina, CC Docket No. 97-208, released Dec. 24, 1997, at ¶ 64, n. 171. The Department is not free to ignore directly relevant FCC interpretations and read in implicit implementation schedules. Consequently, the Department does not find grounds to certify that any qualified request under Track A should be disqualified pursuant to 47 U.S.C. 271(c)(1)(B).

III. FINDINGS OF FACT

1. Verizon's interconnection agreements do not contain explicit implementation schedules specifying a time frame for competitors to serve residential customers.

2. No carrier with approved interconnection agreements are providing local exchange service to residential customers on a facilities or resale basis in Greenwich or Byram.
3. No carrier has challenged Verizon's assertion that local service is not being offered on a facilities or resale basis to residential customers in Byram and Greenwich by alternative local service providers.
4. All carriers with approved interconnection agreements with Verizon are business- or DSL-only providers in Byram and Greenwich.

IV. CONCLUSION

The Department concludes that it lacks the authority to provide the certification requested by Verizon. Further, the Department does not provide certification that any qualified request under Track A should be disqualified pursuant to 47 U.S.C. 271(c)(1)(B).

**DOCKET NO. 97-01-23 APPLICATION OF NEW YORK TELEPHONE COMPANY
PURSUANT TO SECTION 271 OF THE
TELECOMMUNICATIONS REFORM ACT OF 1996**

This Decision is adopted by the following Commissioners:

Jack R. Goldberg

John W. Betkoski, III

Linda Kelly Arnold

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Department of Public Utility Control, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.

Louise E. Rickard
Acting Executive Secretary
Department of Public Utility Control

10/25/2000

Date



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL
TEN FRANKLIN SQUARE
NEW BRITAIN, CT 06051

**DOCKET NO. 97-01-23 APPLICATION OF NEW YORK TELEPHONE COMPANY
PURSUANT TO SECTION 271 OF THE
TELECOMMUNICATIONS REFORM ACT OF 1996**

April 11, 2001

By the following Commissioners:

Jack R. Goldberg
John W. Betkoski, III
Linda Kelly Arnold

DECISION

DECISION

I. INTRODUCTION

A. SUMMARY

This docket addresses Verizon New York, Inc.'s (Verizon or Company) request that the Department of Public Utility Control (Department) approve its proposed statement of generally available terms and conditions (SGAT) and certify that Verizon meets the requirements to proceed under the Track B alternative of Section 271 of the Telecommunications Act of 1996 (Act). In the October 25, 2000 Interim Decision in this proceeding, the Department concluded that it lacked the authority to provide the certification requested by Verizon, but allowed the SGAT to go into effect subject to continuing review. The Department also acknowledges the Decision dated March 21, 2001 in Docket No. 01-02-04, Application of Verizon New York, Inc. for Approval of an Interconnection Agreement with Network Plus, Inc. (Interconnection Agreement), which requires the Department to certify that Verizon meets the requirements under Track A of Section 271 of the Act in order to gain approval to provide in-region interLATA services in Connecticut. The Department has reviewed Verizon's request with respect to the NYPSC record and the Company's SGAT relative to the 14 point competitive checklist; and finds that Verizon has demonstrated full compliance with the competitive checklist. However, in its review of the SGAT, the Department finds that the Geographically Relevant Points of Interconnection Proposal (GRIPS) proposal has not been approved by NYPSC; and therefore the Connecticut GRIPS proposal must be deleted.

B. BACKGROUND OF THE PROCEEDING

On July 31, 2000, the Department received a request from Verizon that the Department approve its proposed SGAT and certify that the Company meets the requisite requirements to proceed under the Track B alternative of Section 271 of the Act. According to Verizon, as a prerequisite to the Company's application for long distance authorization at the Federal Communications Commission (FCC), the Department must certify that Verizon may proceed under Track B.

In the Decision dated September 6, 2000, the Department approved the Company's SGAT subject to its further investigation permitted pursuant to § 252(f)(4) of the Act. In the Interim Decision dated October 25, 2000, the Department concluded that it lacked the authority to provide the certification requested by Verizon.

On March 21, 2001, the Department approved an interconnection agreement between Verizon and Network Plus, Inc. (Network Plus),¹⁴ which required that the Department certify that the Company met the requirements under Track A of Section 271 of the Act. Therefore, Track B is now foreclosed to Verizon, and the Company must now proceed under Track A to gain approval to provide in-region interLATA services in Connecticut.

¹⁴ Decision dated March 21, 2001 in Docket No. 01-02-04, Application of Verizon New York, Inc. for Approval of an Interconnection Agreement with Network Plus, Inc.

C. CONDUCT OF THE PROCEEDING

By Notice of Request for Written Comments (Request) dated September 5, 2000, the Department solicited written comments from interested parties concerning the applicability in Connecticut of the following three specific checklist item categories: (1) items that Verizon provides differently in Connecticut than in New York; (2) items that Verizon provides in the same manner in both states, but for which Verizon has changed its process since filing the New York application; and (3) items that Verizon did not have a legal obligation to provide at the time of the New York application, but that it provides now in the same manner in both Connecticut and New York. Request, p. 18. The Department also requested comments addressing whether the same operations and systems supporting Verizon's Connecticut services are the same systems that support its New York services, and whether the Company has complied with the three categories mentioned above.

The Department received written comments in this proceeding from Verizon New York, Inc. (Verizon); AT&T Communications of New England (AT&T); WorldCom, Inc. (WCI); Cablevision Lightpath, Inc. (Lightpath) and Sprint Communications Company LP (Sprint). By Notice of Close of Hearing dated December 1, 2000, the hearing in this matter was closed.

D. PARTIES AND INTERVENORS

The Department recognized as Parties to this proceeding Verizon New York, Inc., 1095 Avenue of the Americas, New York, New York 10036; the Office of Consumer Counsel, Ten Franklin Square, New Britain, Connecticut 06051; Cablevision Lightpath, Inc., 1111 Stewart Avenue, Bethpage, New York 11714; AT&T Communications of New England, 32 Avenue of the Americas, New York, New York 10013; WorldCom, Inc., 200 Park Avenue, New York, New York 10166. The Department also recognized Sprint Communications Company, LP as an intervenor to this proceeding.

II. POSITIONS OF THE PARTIES

A. VERIZON NEW YORK, INC.

In its July 31, 2000 request for certification, Verizon reviewed the provisions of the Act's checklist and maintained that the Company met those requirements in Connecticut. Verizon based its conviction on the FCC's prior approval of the New York Application granted in December 1999.¹⁵ The Company states that its operations in Connecticut are virtually indistinguishable from Verizon's New York operations; and submits that the FCC decision finding its New York application in compliance with the checklist is sufficient to support a similar finding that the Company's Connecticut operations are also in compliance. For any aspect of the checklist requirements that have changed since December 1999, Verizon states that it has complied with all new

¹⁵ In the Matter of Application of Bell Atlantic – New York Under Section 271 of the Communications Act to Provide In-Region InterLATA Service in the State of New York, CC Docket No. 99-295, Memorandum and Opinion Order, dated December 22, 1999.

requirements, is in full compliance with the checklist and that it should be permitted to provide long distance service in Connecticut. Verizon Comments, September 15, 2000, p. 2; Appendix A, p. 29.

Verizon also addressed the applicability in Connecticut of the 3 specific checklist item categories. That is, (1) items that Verizon provides differently in Connecticut than in New York; (2) items that Verizon provides in the same manner in both states but for which Verizon has changed its process since filing the New York application; and (3) items that Verizon did not have a legal obligation to provide at the time of the New York application, but that it provides now in the same manner in both Connecticut and New York.

In regards to those items that are provided differently in Connecticut than in New York, Verizon states that it considers only Checklist Item No. 3 and Checklist Item No. 7 to be included in this category. In particular, Checklist Item No. 3 requires that the incumbent local exchange company (ILEC) provide nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the ILEC at just and reasonable rates. Verizon states that this access is provided in Connecticut on the same terms and conditions that it provides these items in New York except for one immaterial difference. That is, access to main ducts and conduit is provided through Empire City Subway in New York, a separate subsidiary, a difference that Verizon maintains is insignificant as it provides these items through identical licensing agreements in New York and Connecticut. Further, Verizon maintains that Checklist Item No. 7 requires the ILEC to provide nondiscriminatory access to 911 and E911 services, and is also provided in an identical process to that used by CLECs that resell retail dial tone service or use unbundled local switching service in New York. In the case of 911 and E911 services for Verizon's customers in Connecticut, nondiscriminatory access is simplified by the fact that the Southern New England Telephone Company (SNET) is the E911 provider for Connecticut. Therefore, for its Connecticut customers, Verizon accesses SNET's 911 and E911 services through trunking arrangements. Furthermore, Verizon states that it has in place a nondiscriminatory process to ensure that CLECs' E911 database entries are maintained with the same accuracy and reliability that it maintains for its own retail customers. Verizon Comments, September 15, 2000, pp. 4 and 5.

In regards to the second category, items that Verizon provides in the same manner in both states, but for which Verizon has changed its process since filing the New York application, the Company states that only a portion of Checklist Item No. 7 and Checklist Item No. 8 are included in this category. In addressing Checklist Item No. 7, which also requires the ILEC to provide nondiscriminatory access to directory assistance (DA) services to allow the other carrier's customers to obtain telephone numbers and operator call completion services calls from Connecticut CLEC customers, Verizon states that all calls from customers of resellers and facilities-based carriers are handled in the same Operator Call Completion Centers that handle its own retail customers' requests for DA and other operator services. Calls from CLEC customers are commingled with calls from Verizon's retail customers and handled in a nondiscriminatory manner. Moreover, in regards to Checklist Item No. 8, which requires the ILEC to provide nondiscriminatory access to its white pages directory listings for customers of other carrier's telephone exchange service, Verizon claims that white

pages listings are no longer dropped when a customer moves from Verizon to a CLEC due to software modifications made in February 2000. Verizon Comments, September 15, 2000, pp. 6 and 7.

Verizon claims that Checklist Item No. 13 obligates the ILEC to provide reciprocal compensation arrangements and is addressed in its SGAT. According to Verizon, each carrier is able to recover the costs it incurs for the transport and termination of local traffic originating on the other carrier's network. Verizon indicates that the rates, terms and conditions associated with reciprocal compensation arrangements are closely based on comparable terms and conditions in New York. Verizon also states that the rate levels and rate structure for reciprocal compensation in the Connecticut SGAT are the same as those that were litigated by the New York Public Service Commission (NYPSC) and are based on the Total Element Long Run Incremental Cost (TELRIC) principles defined by the FCC. Due to the fact that the FCC has not issued a decision on whether reciprocal compensation payments will apply to the termination of Internet Service Provider (ISP)-bound traffic, and because the FCC has previously recognized that Internet traffic is not a checklist item, the Company maintains that exclusion of Internet traffic from reciprocal compensation payments in its SGAT is not deficient. Verizon Comments, September 15, 2000; Appendix A, pp. 25-28.

Lastly, Verizon maintains that the third checklist item category, items that Verizon did not have a legal obligation to provide at the time of the New York application, but that it provides now in the same manner in both Connecticut and New York, refers to Checklist Item Nos. 1, 2, 4 and 5. Specifically, Checklist Item No. 1 requires the ILEC to provide interconnection. Verizon states that it has added one new collocation offering since the FCC approved its New York Section 271, providing collocation at remote terminal equipment enclosures (CRTEE) so as to facilitate the CLECs' ability to access the Company's unbundled subloop offerings. According to the Company, the CRTEE offering in the Connecticut SGAT is identical to that provided in New York. Verizon Comments, September 15, 2000, pp. 12 and 13.

Checklist Item No. 2 requires that the ILEC offer nondiscriminatory access to network elements. Verizon states that it is in full compliance with the FCC's Line Sharing Order,¹⁶ as it began offering requesting carriers unbundled access to the high frequency portion of those loops on which Verizon provides voice service to end users. According to Verizon, CLECs have the ability to purchase line sharing in Connecticut through interconnection agreements, tariffs or the SGAT. Furthermore, Verizon has agreed that decisions made in the New York line sharing collaborative will apply in Connecticut unless the Department establishes alternative requirements. Verizon asserts that it is capable of meeting CLECs' demands for line sharing in commercial volumes as it is monitoring line sharing order volumes and is poised to add additional personnel as necessary. Another checklist requirement that has been modified since Verizon's filing the New York application requires Verizon to provide unbundled access to Network Interface Devices (NID) and access to the NID on a stand-alone basis. The

¹⁶ In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98-147, In the Matter of Implementation of the Local Competition Provision of the Telecommunications Act of 1996, CC Docket No. 96-98, (Line Sharing and UNE Remand Orders), (December 9, 1999).

terms and conditions of Verizon's unbundled NID offering in Connecticut are provided in the SGAT and are the same as those in New York. Verizon Comments, September 15, 2000, pp. 12-14.

Checklist Item No. 4 requires ILECs to offer local loop transmission from the central office to the customer's premises, unbundled from local switching or other services. Pursuant to the FCC's Unbundled Network Element (UNE) Remand Order,¹⁷ Verizon provides access to unbundled subloops through interconnection agreements, tariffs and the SGAT. Although no CLEC has requested subloops in Connecticut at this time, Verizon maintains that it offers access to subloop elements that are not located on the customer premises. Verizon Comments, September 15, 2000, p. 12.

Checklist Item No. 5 requires the ILEC to provide local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services. Pursuant to the UNE Remand Order, Verizon offers dark fiber interoffice facilities and dark fiber loops, where spare facilities are available in Connecticut. Verizon indicates that order volumes for dark fiber in New York and Connecticut have been low; however, the Company claims that it has extensive experience in provisioning dark fiber to CLECs in several other New England states. Verizon Comments, September 15, 2000, p. 11.

B. AT&T COMMUNICATIONS OF NEW ENGLAND

AT&T claims that the second checklist item category pertains to Verizon's operational support system (OSS) issues. AT&T states that it continues to experience problems with Verizon's Loss of Line reports. AT&T also finds Verizon's change control process inadequate and that its System Help Desk does not resolve problems in a timely fashion. AT&T concludes that Verizon does not provide nondiscriminatory access to OSS. AT&T Comments, September 15, 2000, pp. 3-11.

AT&T maintains that the third checklist item category relates to Verizon's obligations under the Act and the FCC's Line Sharing and UNE Remand Orders. AT&T asserts that Verizon's tariff provisions and its SGAT fail to facilitate a competitive local exchange carrier's (CLEC) provision of digital service line services (DSL) with the UNE-Platform (UNE-P). AT&T states that in order to be in compliance in the third category, Verizon must facilitate line splitting by UNE-P providers so that voice CLECs can provide, either directly or through an arrangement with another CLEC, broadband data services to end users. AT&T states that this should also include: the provision of access to the high frequency spectrum of the loop in a manner that is the least disruptive to, and maintains to the fullest extent possible, existing processes and procedures for the ordering, maintenance and billing of UNE-P and the deployment of OSS to support line splitting by March 2001, and ownership and deployment of voice-data splitters on a line-at-a-time basis. AT&T states that no finding of checklist compliance under the Act can be issued by the Department unless and until such time as Verizon has fully complied with the FCC's UNE Remand and Line Sharing Orders and the above list of conditions. AT&T Comments, September 15, 2000, pp. 3, 4 and 27.

¹⁷ Id.

C. WORLDCom, INC.

WCI finds Verizon's request for a review of its checklist compliance to be premature. However, in order to facilitate the development of competition in Connecticut, WCI provided comments on the Company's checklist compliance, specifically finding that Verizon is not in compliance with Checklist Item Nos. 1 (interconnection), 2 (UNEs), 4 (Unbundled Local Loops) and 13 (Reciprocal Compensation). WCI Comments, September 15, 2000, pp. 5 and 11.

WCI asserts that Verizon is relying on the NYPSC's determination that its OSS performance satisfies the competitive checklist. According to WCI, the Department should not certify Verizon's compliance with Checklist Item No. 2 until it has demonstrated that the OSS for Connecticut is identical to Verizon's New York OSS. Furthermore, WCI believes the Department should require that Verizon's Performance Assurance Plan (PAP) be, at a minimum, identical to its PAP in New York. Unless the Department requires identical systems and performance assurances, Verizon would be able to manipulate the OSS or the PAP to lessen its obligations and weaken its performance. WCI adds that any modifications in the New York PAP should be automatically incorporated into the Connecticut PAP. WCI Comments, September 15, 2000, p. 8.

WCI maintains that Verizon's SGAT does not provide nondiscriminatory collocation and that its Geographically Relevant Points of Interconnection Proposal (GRIPS) is discriminatory and anti-competitive. WCI encourages the Department to require Verizon to remove the GRIPS proposal from the SGAT as a prerequisite for the Department's certification of compliance with Checklist Item No. 1. At the very least, WCI suggests that the GRIPS proposal be removed from the SGAT until such time as it is approved by the NYPSC. WCI Comments, September 15, 2000, pp. 6 and 7.

While noting that Verizon has stated that it will adopt the results of the NYPSC's comprehensive review of UNE pricing in Connecticut,¹⁸ WCI recommends that the Department also require such action by the Company in Connecticut, including all rulings as to the applicability of TELRIC pricing. WCI Comments, September 15, 2000, p. 9.

Particularly important to WCI is line splitting over the UNE-P. According to WCI, Verizon asserted in New York that it has no obligation to permit line splitting over the UNE-P. WCI states that until Verizon accepts commercial volumes of UNE-P line splitting orders, it can not be considered in compliance. WCI Comments, September 15, 2000, pp. 9 and 10.

Lastly, regarding Checklist Item No. 13, WCI maintains that Verizon has attempted to exempt Internet traffic from reciprocal compensation by its SGAT. In the opinion of WCI, Verizon's proposed treatment of Internet traffic would guarantee no competition for ISP customers as CLECs would go uncompensated for carrying the

¹⁸ NYPSC Case 98-C-1357 - Proceeding on Motion of the Commission to Examine New York Telephone Company's Rates for Unbundled Network Elements.

traffic that terminates to those customers. Furthermore, while WCI would not expect reciprocal compensation for transport and termination functions, it would expect reciprocal compensation for the end office switching that Verizon would presumably charge for the use of the unbundled switch. Id.

D. CABLEVISION LIGHTPATH, INC.

Lightpath also considers the Department's review of Verizon's compliance checklist to be premature, stating that approval of the checklist is unnecessary. However, Lightpath emphasizes that any reliance on NYPSC conclusions should mandate the same commitments from Verizon in Connecticut as those relied upon by the NYPSC in realizing its decisions. Connecticut CLECs must receive the same level of interconnection and service in Connecticut that CLECs receive in New York. In order to ensure a procompetitive environment equal to that established in New York, Verizon should:

- Commit to accept the performance measures and remedies in existing interconnection agreements as a nonnegotiable component of future interconnection agreements;
- Accept existing interconnection agreements as the nonnegotiable floor below which Verizon may not fall in future interconnection agreements;
- Recognize its obligation to provide reciprocal compensation for Internet traffic in Connecticut;
- Withdraw its GRIPs proposal and abide by federal regulations to allow CLECs to interconnect with Verizon at any technically feasible point within the Local Access Transport Area (LATA);
- Commit to incorporate all local competition obligations established by the NYPSC on a going-forward basis, including those set forth in the FCC's UNE Remand Order and Line Sharing Order, in the SGAT and in Connecticut tariffs;
- Submit for investigation and review all relevant comparative performance data so that the Department may determine whether parity of performance is being provided to Connecticut CLECs; and
- Modify its proposed Performance Assurance Plan, including adoption of performance measurements and self-executing financial remedies that are specific to Verizon's performance to each CLEC.

Lightpath maintains that without these revisions to its application, Verizon will not be in compliance with its competitive checklist obligations and the development of long-term competition will be significantly impaired. Lightpath states that Verizon should be required to withdraw its checklist compliance filing with instructions to resubmit the application at the appropriate time with the supporting evidence necessary to satisfy the

legal standards required under Track A. Lightpath Comments, September 15, 2000, pp. 31 and 32.

E. SPRINT COMMUNICATIONS COMPANY, LP

Sprint stresses that any Department review of Verizon's compliance with the competitive checklist must encompass all 14 items, not just an overview of the three categories listed above, where Verizon's provision of services in New York is compared to its provision of services in Connecticut. Sprint indicates that while Verizon emphasizes its reliance on the same systems used in New York to provision OSS in Connecticut, it was not required to demonstrate that its OSS mechanized interfaces supported line sharing. Verizon's OSS interfaces in Connecticut must be shown to be capable of supporting line sharing before a truly effective competitive local exchange market can be developed. Sprint Comments, September 15, 2000, p. 4.

Sprint concurs with the other CLECs, stating that Verizon must also comply with the requirements set forth in the FCC's Line Sharing and UNE Remand Orders. Sprint states that Verizon must offer CLECs access to dark fiber, the network interface device, subloop unbundling, collocation at remote terminals and line sharing in order to be in compliance with the FCC Orders. Further, Sprint notes that the Department has not conducted a comprehensive review of Verizon's amended tariffs filed in June 2000 in order to make the offerings demanded in the FCC orders available. Sprint maintains that these tariffs do not appear to comply with all of the necessary requirements, such as collocation at remote terminal equipment enclosures and subloop unbundling. Sprint suggests that the Department find that Verizon has not demonstrated full compliance with the competitive checklist and recommends against Verizon receiving authorization to offer long distance services in Connecticut at this time. Sprint Comments, September 15, 2000, pp. 3 and 4.

III. DEPARTMENT ANALYSIS

A. REVIEW OF VERIZON'S COMPLIANCE WITH THE 14 POINT COMPETITIVE CHECKLIST

While acknowledging Verizon's Interconnection Agreement with Network Plus, the Department does not consider one Interconnection Agreement by itself to be sufficient justification to support Verizon's claim that it meets the requirements of the 14 point competitive checklist. The Department has therefore conducted its review of Verizon's request in light of its past Decisions, the NYPSC record and the Company's SGAT relative to the 14 point competitive checklist. It is noted that Verizon proposed that the Department's review be based on the NYPSC record; however, in its review of the SGAT, the Department finds that the NYPSC has not approved the GRIPS proposal; and therefore, Verizon must delete its Connecticut GRIPS proposal, until such time as it is approved by the NYPSC.

Verizon claims that it is in compliance with the checklist as required by the Act, a prerequisite for the Company to file its application for long distance authorization in Connecticut. As stated in Sections 271 (B) of the Act:

(B) COMPETITIVE CHECKLIST- Access or interconnection provided or generally offered by a Bell operating company to other telecommunications carriers meets the requirements of this subparagraph if such access and interconnection includes each of the following: (i) Interconnection in accordance with the requirements of sections 251(c)(2) and 252(d)(1). (ii) Nondiscriminatory access to network elements in accordance with the requirements of sections 251(c)(3) and 252(d)(1). (iii) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates in accordance with the requirements of section 224. (iv) Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services. (v) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services. (vi) Local switching unbundled from transport, local loop transmission, or other services. (vii) Nondiscriminatory access to--(I) 911 and E911 services; (II) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and (III) operator call completion services. (viii) White pages directory listings for customers of the other carrier's telephone exchange service. (ix) Until the date by which telecommunications numbering administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules. (x) Nondiscriminatory access to databases and associated signaling necessary for call routing and completion. (xi) Until the date by which the Commission issues regulations pursuant to section 251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with such regulations. (xii) Nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity in accordance with the requirements of section 251(b)(3). (xiii) Reciprocal compensation arrangements in accordance with the requirements of section 252(d)(2). (xiv) Telecommunications services are available for resale in accordance with the requirements of sections 251(c)(4) and 252(d)(3).

In the Interim Decision dated October 25, 2000, the Department concluded that it lacked the authority to provide the certification requested by Verizon under the Track B alternative. Nevertheless, the Department proceeded with a review of Verizon's

compliance with the Act's 14 point competitive checklist in order to determine whether Verizon has sufficiently opened its market to competition in Connecticut and whether it has committed to measures that will ensure its market remains open to competition if it is granted the authority to enter the long distance market.

Verizon submits that its Connecticut operations are virtually indistinguishable from its New York operations, and therefore, the Company considers the FCC decision finding that it is in full compliance with the checklist items for New York to be sufficient evidence to support a finding that Verizon's Connecticut operations are also in compliance. For those checklist items which have remained constant since the FCC's approval of Verizon's New York application, the Department will rely on the record of the NYPSC for its findings of compliance for those specific checklist items in Connecticut.

The Department finds that the NYPSC's comprehensive investigation was conducted in a manner that is consistent with Department and FCC standards. The Department believes that it is reasonable for Verizon to have consistency between Connecticut and New York and has permitted the Company to offer various services in its Connecticut service territory that mirror those being offered in New York.¹⁹ Specifically, the Department will rely on the NYPSC decision²⁰ and the FCC's Orders for New York state to be sufficient evidence that the following checklist items in Connecticut are in full compliance with the Act. Checklist Item No. 3, Nondiscriminatory access to the poles, ducts, conduits and rights-of-way owned or controlled by Verizon; Checklist Item No. 4, Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services; Checklist Item No. 5, Local transport from the trunk side of a wireline local exchange carrier switch, unbundled from switching or other services; Checklist Item No. 6, Nondiscriminatory unbundled local switching; Checklist Item No. 7, Nondiscriminatory access to 911 and E911, directory assistance and operator services; Checklist Item No. 8, access to white pages and directory listings; Checklist Item No. 9, Nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers; Checklist Item No. 11, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible; Checklist Item No. 12, Nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity and Checklist Item No. 14, Telecommunications services are available for resale.

The Department finds that Verizon's application contains a number of checklist items (not listed above) for which it can not rely only on the NYPSC for verification that the Company is in compliance in Connecticut. The first category, items that Verizon

¹⁹ See the Decision dated May 17, 2000, Application of Bell Atlantic for a Proposed Tariff for Unbundled Network Elements – Rebundled Service; Decision dated June 9, 1999 in Docket No. 99-03-32, Application of New York Telephone to Introduce Call Manager Package; Decision dated August 4, 1999 in Docket No. 99-05-28, Application of New York Telephone to Amend ISDN Basic Service and the Decision dated December 29, 1999 in Docket No. 99-11-06, Application of New York Telephone to Introduce Centrex Caller ID with Name.

²⁰ NYPSC Case 97-C-0271, For Approval of Its Statement of Generally Available Terms and Conditions Pursuant to Section 252 of the Telecommunications Act of 1996 and Draft Filing of Petition for InterLATA Entry Pursuant to Section 271 of the Telecommunications Act of 1996.

provides differently in Connecticut than in New York, addresses Verizon's GRIPS proposal. Due to the fact that the NYPSC has not approved the GRIPS proposal, the Department finds that Verizon must remove the GRIPS proposal in Connecticut, until such time as it is approved by the NYPSC.

In regards to the second category, items that Verizon provides in the same manner in both states, but for which Verizon has changed its process since filing the New York application, Verizon indicates that it has taken various steps to update its OSS in New York to remain compliant with its OSS obligations. The CLECs do not perceive Verizon's OSS in Connecticut to be the same as it is in New York and suggest that the Department should not certify Verizon's compliance until it has demonstrated that the OSS for Connecticut is identical to Verizon's New York OSS. Lightpath primarily focused on the fact that complaints about Verizon's OSS performance in New York forced the NYPSC to issue an order requiring daily performance reports.²¹ Furthermore, the FCC found it necessary to negotiate a consent decree with Verizon, in which the Company was required to provide the NYPSC with weekly performance reports and meet certain baseline requirements.²² The FCC has since determined that the Company's OSS is satisfactory and released Verizon of its obligation to provide performance reports due to substantial improvements made in the performance of Verizon's OSS. However, the NYPSC indicated that the very existence of these reviews underscored the need for significant oversight in order to ensure compliance with the Act.

Verizon claims to have updated any provisioning processes and repaired any technical problems to assure all CLECs are treated in a nondiscriminatory manner. The CLECs maintain that regardless of the changes made, Verizon's failure to make the same commitments in this proceeding as it has made in New York indicates that it is seeking to gain regulatory approval to enter the long distance market without truly opening its market in Connecticut. The Department acknowledges Verizon's assurance that parity of performance is being provided to Connecticut CLECs, and the ongoing problems of CLECs with OSS. The Department also recognizes the findings of the FCC and the NYPSC regarding OSS.

For the above reasons, Verizon will be required to submit all relevant comparative performance data to the Department in the same format as ordered by the FCC and NYPSC, to ensure parity of performance is being provided to Connecticut CLECs. The Department will require that these reports continue until it is satisfied that all OSS issues have been addressed accordingly. Additionally, the Department will require Verizon's PAP be identical to its New York PAP, incorporating any modifications of the New York PAP automatically into the Connecticut PAP, with the amount of monetary penalties for unsatisfactory performance being the only exception. The amounts will be determined based on the amounts at risk in the New York PAP, scaled down in direct proportion to the number of access lines that Verizon serves in Connecticut.

²¹ NYPSC Cases 00-C-0008 and 00-C-0009, Order Directing Improvements to Wholesale Services Performance, February 11, 2000.

²² Id.

Due to the fact that the FCC has yet to issue a decision on whether reciprocal compensation payments will apply to the termination of ISP-bound traffic, and because in the past the FCC has recognized that traffic bound for the Internet is not a checklist item, Verizon maintains that exclusion of Internet traffic from reciprocal compensation payments in its SGAT is not deficient. The CLECs strongly disagree with this position. The Department has ruled in the past that reciprocal compensation payments must apply to ISP-bound traffic.²³ The Department finds Verizon's proposal to exclude Internet traffic from reciprocal compensation payments to be unacceptable and requires that language in the SGAT be amended as necessary.

The third category includes items that Verizon did not have a legal obligation to provide at the time of the New York application, but that it provides now in the same manner in both Connecticut and New York. Specifically, this category addresses the Company's obligations under the FCC's Line Sharing and UNE Remand Orders. In compliance with these orders, Verizon must offer CLECs access to dark fiber, NIDs, subloop unbundling, collocation at remote terminals and line sharing. Verizon states that it offers all new services to CLECs and fully complies with the additional checklist requirements resulting from these two FCC decision.

The NYPSC examined issues concerning the provision of DSL services.²⁴ In that decision, Verizon was ordered to provide DSL services for a competitive data local exchange carrier's customers in specific intervals; to complete augmenting of cable and splitter capacity in competitors' collocation arrangements; to offer comparable line sharing or line splitting to voice competitor local exchange carriers serving customers using the UNE-P; to establish a pilot for a new software application with full commercial implementation; to offer competitors access to customers served over digital loop carriers as it becomes technically feasible and necessary for competitors to offer their services and to modify its dark fiber tariff.

Since Verizon has made a commitment to revise its Connecticut tariffs and SGAT based on the collaborative and the NYPSC Case 00-C-0127 decision, AT&T, WCI and Lightpath are amenable to the Department's adoption of the New York record in this proceeding on a going-forward basis. The Department notes that it will again rely on the comprehensive investigation and expertise of the NYPSC on this issue. Concerning the Company's obligations under the FCC's Line Sharing and UNE Remand Orders, the Department finds Verizon's commitment to revise its Connecticut tariffs and SGAT based on NYPSC decisions and any further record in this proceeding on a going-forward basis to be sufficient.

²³ Decision dated September 17, 1997 in Docket No. 97-05-22, Petition of the Southern New England Telephone Company for a Declaratory Ruling Concerning Internet Services Provider Traffic.

²⁴ NYPSC Case 00-C-0127 – Proceeding on Motion of the Commission to Examine Issues Concerning the Provision of Digital Subscriber Line Services, July 20, 2000.

B. SUMMARY OF 14 POINT CHECKLIST COMPLIANCE

The Department will rely on its Decisions,²⁵ the NYPSC decision and the FCC's Orders for New York to be sufficient evidence that the following checklist items in Connecticut are in full compliance with the Act:

Checklist Item No. 1 – Interconnection;

Checklist Item No. 2 – Nondiscriminatory access to network elements;

Checklist Item No. 3 - Nondiscriminatory access to the poles, ducts, conduits and rights-of-way owned or controlled by Verizon;

Checklist Item No. 4 – Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services;

Checklist Item No. 5 – Local transport from the trunk side of a wireline local exchange carrier switch, unbundled from switching or other services;

Checklist Item No. 6 - Nondiscriminatory unbundled local switching;

Checklist Item No. 7 - Nondiscriminatory access to 911 and E911, directory assistance and operator services;

Checklist Item No. 8 - access to white pages and directory listings;

Checklist Item No. 9 - Nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers;

Checklist Item No. 10 – Nondiscriminatory access to databases and associated signaling necessary for call routing and completion;

Checklist Item No. 11 - interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible;

Checklist Item No. 12 - Nondiscriminatory access to such services or information as are necessary to allow the requesting carrier to implement local dialing parity;

²⁵ See for example, the May 17, 2000 Decision in Docket No. 94-11-03, DPUC Investigation Into the Unbundling of the New York Telephone Company's Local Telecommunications Network; and the February 23, 2000 Decision in Docket No. 99-05-30, Application of New York Telephone Company Pursuant to Section 271 of the Telecommunications Reform Act of 1996.

Checklist Item No. 13 – Reciprocal compensation;

Checklist Item No. 14 - Telecommunications services are available for resale.

C. PERFORMANCE ASSURANCE PLAN

The intent of the PAP is to implement mechanisms that will protect competition by encouraging Verizon to provide non-discriminatory service to all CLECs entering or serving the Connecticut market. The PAP is structured in two main parts – a Mode of Entry (MOE) measurement mechanism and a Critical Measures mechanism. The amount at risk in Connecticut is directly proportional to the amount at risk in New York, based on the relative number of access lines served by Verizon in both states. Under the PAP, \$400,000 will be available as bill credits for each part if Verizon receives unsatisfactory performance scores. The PAP also contains a provision that would double the amount paid in bill credits under the MOE mechanism if Verizon provides poor service for three consecutive months, thus placing \$1.2 million per year at risk.

Additionally, the PAP contains a Special Provisions section that makes \$290,000 available as bill credits for certain measurements related to UNE flow through, UNE ordering and hot cut performance; and makes an additional \$120,000 available for certain Electronic Data Interchange ordering measurements. All of these amounts were based on the amounts at risk in the New York PAP, scaled down in proportion to the number of access lines that Verizon serves in Connecticut. Verizon will provide additional bill credits to CLECs operating only in Connecticut if its performance under the New York Change Control Assurance Plan is unsatisfactory. As a result, Verizon has set aside more than \$1.49 million per year to guarantee its performance in the wholesale market. Moreover, under the Plan, the Department will have the ability to redistribute the money available as monthly bill credits among all aspects of the Plan during the year. Verizon Filing, 7/30/00, Appendix E.

WCI believes the Department should require that Verizon's PAP be identical to that approved in New York, otherwise the Company would be able to manipulate the OSS or the PAP to lessen its obligations and weaken its performance. WCI adds that any modifications in the New York PAP should be automatically incorporated into the Connecticut PAP. WCI Comments, September 15, 2000, p. 8.

LightPath also states that in order to ensure a procompetitive environment equal to that established in New York, Verizon should modify its proposed PAP to include adoption of performance measurements and self-executing financial remedies that are specific to Verizon's performance to each CLEC.

Verizon submits that its Connecticut operations are virtually indistinguishable from its New York operations, and considers the FCC decision finding that it is in full compliance with the checklist items for New York to be sufficient evidence to support a finding that Verizon's Connecticut operations are also in compliance. For this reason, the Department will require Verizon's PAP be identical to its New York PAP, incorporating any modifications of the New York PAP automatically into the Connecticut PAP, with the amount of monetary penalties for unsatisfactory performance being the

only exception. The penalty amounts will be determined based on the amounts at risk in the New York PAP, scaled down in direct proportion to the number of access lines that Verizon serves in Connecticut.

IV. CONCLUSION

With the exception of GRIPS, the Department concludes that Verizon has demonstrated full compliance with the competitive checklist. The Company may proceed under Track A to gain approval to provide in-region interLATA services in Connecticut.

V. FINDINGS OF FACT

1. Verizon seeks support based on the New York process and approval, but the GRIPS proposal in the SGAT for Connecticut has not been approved by the NYPSC.
2. Verizon has demonstrated full compliance with the competitive checklist.
3. On March 21, 2001, the Department approved an Interconnection Agreement between Verizon and Network Plus.
4. The Department has ruled in the past that reciprocal compensation payments must apply to ISP-bound traffic.²⁶

VI. ORDERS

For the following Orders, please submit an original and 12 copies of the requested material, identified by Docket Number, Title and Order Number to the Executive Secretary.

1. The GRIPS proposal shall be deleted from the SGAT until such time as it is approved by the NYPSC.
2. No later than April 25, 2001, Verizon shall submit all relevant comparative performance data to the Department in the same format as ordered by the FCC and NYPSC.
3. Verizon's Connecticut PAP shall be identical to its New York PAP, with the amount of monetary penalties for unsatisfactory performance being the only exception.
4. Verizon shall amend language in the SGAT to include Internet traffic in its reciprocal compensation payments.

²⁶ See the July 2, 1997 Decision in Docket No. 97-05-15, Application of New York Telephone Company to Comply with the Federal Communications Commission Order Re: New Services Test.

**DOCKET NO. 97-01-23 APPLICATION OF NEW YORK TELEPHONE COMPANY
PURSUANT TO SECTION 271 OF THE
TELECOMMUNICATIONS REFORM ACT OF 1996**

This Decision is adopted by the following Commissioners:

Jack R. Goldberg

John W. Betkoski, III

Linda Kelly Arnold

CERTIFICATE OF SERVICE

The foregoing is a true and correct copy of the Decision issued by the Department of Public Utility Control, State of Connecticut, and was forwarded by Certified Mail to all parties of record in this proceeding on the date indicated.

Louise E. Rickard
Acting Executive Secretary
Department of Public Utility Control

4/12/01

Date